

REFERENCE TITLE: charter schools; sponsorship

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2568

Introduced by
Representative Anderson

AN ACT

AMENDING SECTIONS 15-183 AND 15-185, ARIZONA REVISED STATUTES; RELATING TO
CHARTER SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-183, Arizona Revised Statutes, is amended to
3 read:

4 15-183. Charter schools; application; requirements; immunity;
5 exemptions; renewal of application; reprisal;
6 definitions

7 A. An applicant seeking to establish a charter school shall submit a
8 written application to a proposed sponsor as prescribed in subsection C of
9 this section. The application shall include a detailed business plan for the
10 charter school and may include a mission statement for the charter school, a
11 description of the charter school's organizational structure and the
12 governing body, a financial plan for the first three years of operation of
13 the charter school, a description of the charter school's hiring policy, the
14 name of the charter school's applicant or applicants and requested sponsor, a
15 description of the charter school's facility and the location of the school,
16 a description of the grades being served and an outline of criteria designed
17 to measure the effectiveness of the school.

18 B. The sponsor of a charter school may contract with a public body,
19 private person or private organization for the purpose of establishing a
20 charter school pursuant to this article.

21 C. The sponsor of a charter school may be either a school district
22 governing board, the state board of education, ~~or~~ the state board for charter
23 schools, **A PUBLIC UNIVERSITY, A PUBLIC COLLEGE OR A COMMUNITY COLLEGE,**
24 subject to the following requirements:

25 1. For charter schools that submit an application for sponsorship to a
26 school district governing board:

27 (a) An applicant for a charter school may submit its application to a
28 school district governing board, which shall either accept or reject
29 sponsorship of the charter school within ninety days. An applicant may
30 submit a revised application for reconsideration by the governing board. If
31 the governing board rejects the application, the governing board shall notify
32 the applicant in writing of the reasons for the rejection. The applicant may
33 request, and the governing board may provide, technical assistance to improve
34 the application.

35 (b) In the first year that a school district is determined to be out
36 of compliance with the uniform system of financial records, within fifteen
37 days of the determination of noncompliance, the school district shall notify
38 by certified mail each charter school sponsored by the school district that
39 the school district is out of compliance with the uniform system of financial
40 records. The notification shall include a statement that if the school
41 district is determined to be out of compliance for a second consecutive year,
42 the charter school will be required to transfer sponsorship to another entity
43 pursuant to subdivision (c) of this paragraph.

1 (c) In the second consecutive year that a school district is
 2 determined to be out of compliance with the uniform system of financial
 3 records, within fifteen days of the determination of noncompliance, the
 4 school district shall notify by certified mail each charter school sponsored
 5 by the school district that the school district is out of compliance with the
 6 uniform system of financial records. A charter school that receives a
 7 notification of school district noncompliance pursuant to this subdivision
 8 shall file a written sponsorship transfer application within forty-five days
 9 with the state board of education, the state board for charter schools or the
 10 school district governing board if the charter school is located within the
 11 geographic boundaries of that school district. A charter school that
 12 receives a notification of school district noncompliance may request an
 13 extension of time to file a sponsorship transfer application and the state
 14 board of education, the state board for charter schools or a school district
 15 governing board may grant an extension of not more than an additional thirty
 16 days if good cause exists for the extension. The state board of education
 17 and the state board for charter schools shall approve a sponsorship transfer
 18 application pursuant to this paragraph.

19 (d) Beginning July 1, 2000, a school district governing board shall
 20 not grant a charter to a charter school that is located outside the
 21 geographic boundaries of that school district.

22 (e) A school district that has been determined to be out of compliance
 23 with the uniform system of financial records during either of the previous
 24 two fiscal years shall not sponsor a new or transferring charter school.

25 2. The applicant may submit the application to the state board of
 26 education or the state board for charter schools. The state board of
 27 education or the state board for charter schools may approve the application
 28 if the application meets the requirements of this article and may approve the
 29 charter if the proposed sponsor determines, within its sole discretion, that
 30 the applicant is sufficiently qualified to operate a charter school. The
 31 state board of education or the state board for charter schools may approve
 32 any charter schools transferring charters. The state board of education and
 33 the state board for charter schools shall approve any charter schools
 34 transferring charters from a school district that is determined to be out of
 35 compliance with the uniform system of financial records pursuant to this
 36 section, but may require the charter school to sign a new charter that is
 37 equivalent to the charter awarded by the former sponsor. If the state board
 38 of education or the state board for charter schools rejects the preliminary
 39 application, the state board of education or the state board for charter
 40 schools shall notify the applicant in writing of the reasons for the
 41 rejection and of suggestions for improving the application. An applicant may
 42 submit a revised application for reconsideration by the state board of
 43 education or the state board for charter schools. The applicant may request,
 44 and the state board of education or the state board for charter schools may
 45 provide, technical assistance to improve the application.

1 3. THE APPLICANT MAY SUBMIT THE APPLICATION TO A PUBLIC UNIVERSITY, A
2 PUBLIC COLLEGE OR A COMMUNITY COLLEGE. A PUBLIC UNIVERSITY, A PUBLIC COLLEGE
3 OR A COMMUNITY COLLEGE MAY APPROVE THE APPLICATION IF THE APPLICATION MEETS
4 THE REQUIREMENTS OF THIS ARTICLE AND MAY APPROVE THE CHARTER IF THE PROPOSED
5 SPONSOR DETERMINES, WITHIN ITS SOLE DISCRETION, THAT THE APPLICANT IS
6 SUFFICIENTLY QUALIFIED TO OPERATE A CHARTER SCHOOL.

7 ~~3.~~ 4. Each applicant seeking to establish a charter school shall
8 submit a full set of fingerprints to the approving agency for the purpose of
9 obtaining a state and federal criminal records check pursuant to section
10 41-1750 and Public Law 92-544. If an applicant will have direct contact with
11 students, the applicant shall possess a valid fingerprint clearance card that
12 is issued pursuant to title 41, chapter 12, article 3.1. The department of
13 public safety may exchange this fingerprint data with the federal bureau of
14 investigation. The criminal records check shall be completed before the
15 issuance of a charter.

16 ~~4.~~ 5. All persons engaged in instructional work directly as a
17 classroom, laboratory or other teacher or indirectly as a supervisory
18 teacher, speech therapist or principal shall have a valid fingerprint
19 clearance card that is issued pursuant to title 41, chapter 12, article 3.1,
20 unless the person is a volunteer or guest speaker who is accompanied in the
21 classroom by a person with a valid fingerprint clearance card. A charter
22 school shall not employ a teacher whose certificate has been revoked for a
23 violation of section 15-507 or 15-550 or for any offense that placed a pupil
24 in danger. All other personnel shall be fingerprint checked pursuant to
25 section 15-512. Before employment, the charter school shall make documented,
26 good faith efforts to contact previous employers of a person to obtain
27 information and recommendations that may be relevant to a person's fitness
28 for employment as prescribed in section 15-512, subsection F. The charter
29 school shall notify the department of public safety if the charter school or
30 sponsor receives credible evidence that a person who possesses a valid
31 fingerprint clearance card is arrested for or is charged with an offense
32 listed in section 41-1758.03, subsection B. Charter schools may hire
33 personnel that have not yet received a fingerprint clearance card if proof is
34 provided of the submission of an application to the department of public
35 safety for a fingerprint clearance card and if the charter school that is
36 seeking to hire the applicant does all of the following:

37 (a) Documents in the applicant's file the necessity for hiring and
38 placement of the applicant before receiving a fingerprint clearance card.

39 (b) Ensures that the department of public safety completes a statewide
40 criminal history information check on the applicant. A statewide criminal
41 history information check shall be completed by the department of public
42 safety every one hundred twenty days until the date that the fingerprint
43 check is completed.

1 (c) Obtains references from the applicant's current employer and the
2 two most recent previous employers except for applicants who have been
3 employed for at least five years by the applicant's most recent employer.

4 (d) Provides general supervision of the applicant until the date that
5 the fingerprint card is obtained.

6 (e) Completes a search of criminal records in all local jurisdictions
7 outside of this state in which the applicant has lived in the previous five
8 years.

9 (f) Verifies the fingerprint status of the applicant with the
10 department of public safety.

11 ~~5-~~ 6. If a charter school operator is not already subject to a public
12 meeting or hearing by the municipality in which the charter school is
13 located, the operator of a charter school shall conduct a public meeting at
14 least thirty days before the charter school operator opens a site or sites
15 for the charter school. The charter school operator shall post notices of
16 the public meeting in at least three different locations that are within
17 three hundred feet of the proposed charter school site.

18 7. BEGINNING JULY 1, 2008, EXCEPT FOR A SCHOOL DISTRICT, A SPONSOR OF
19 A CHARTER SCHOOL SHALL NOT OWN, OPERATE OR ADMINISTER A CHARTER SCHOOL.

20 D. ~~A-board~~ AN ENTITY that is authorized to sponsor charter schools
21 pursuant to this article has no legal authority over or responsibility for a
22 charter school sponsored by a different ~~board~~ ENTITY. This subsection does
23 not apply to the state board of education's duty to exercise general
24 supervision over the public school system pursuant to section 15-203,
25 subsection A, paragraph 1.

26 E. The charter of a charter school shall ensure the following:

27 1. Compliance with federal, state and local rules, regulations and
28 statutes relating to health, safety, civil rights and insurance. The
29 department of education shall publish a list of relevant rules, regulations
30 and statutes to notify charter schools of their responsibilities under this
31 paragraph.

32 2. That it is nonsectarian in its programs, admission policies and
33 employment practices and all other operations.

34 3. That it provides a comprehensive program of instruction for at
35 least a kindergarten program or any grade between grades one and twelve,
36 except that a school may offer this curriculum with an emphasis on a specific
37 learning philosophy or style or certain subject areas such as mathematics,
38 science, fine arts, performance arts or foreign language.

39 4. That it designs a method to measure pupil progress, toward the
40 pupil outcomes adopted by the state board of education pursuant to section
41 15-741.01 including participation in the Arizona instrument to measure
42 standards test and the nationally standardized norm-referenced achievement
43 test as designated by the state board and the completion and distribution of
44 an annual report card as prescribed in chapter 7, article 3 of this title.

1 5. That, except as provided in this article and in its charter, it is
2 exempt from all statutes and rules relating to schools, governing boards and
3 school districts.

4 6. That, except as provided in this article, it is subject to the same
5 financial and electronic data submission requirements as a school district,
6 including the uniform system of financial records as prescribed in chapter 2,
7 article 4 of this title, procurement rules as prescribed in section 15-213
8 and audit requirements. The auditor general shall conduct a comprehensive
9 review and revision of the uniform system of financial records to ensure that
10 the provisions of the uniform system of financial records that relate to
11 charter schools are in accordance with commonly accepted accounting
12 principles used by private business. A school's charter may include
13 exceptions to the requirements of this paragraph that are necessary as
14 determined by the district governing board, the state board of education or
15 the state board for charter schools. The department of education or the
16 office of the auditor general may conduct financial, program or compliance
17 audits.

18 7. Compliance with all federal and state laws relating to the
19 education of children with disabilities in the same manner as a school
20 district.

21 8. That it provides for a governing body for the charter school that
22 is responsible for the policy decisions of the charter school.

23 9. That it provides a minimum of one hundred seventy-five
24 instructional days before June 30 of each fiscal year unless it is operating
25 on an alternative calendar approved by its sponsor. The superintendent of
26 public instruction shall adjust the apportionment schedule accordingly to
27 accommodate a charter school utilizing an alternative calendar.

28 F. The charter of a charter school shall include a description of the
29 charter school's personnel policies, personnel qualifications and method of
30 school governance and the specific role and duties of the sponsor of the
31 charter school. A charter school shall keep on file the resumes of all
32 current and former employees who provide instruction to pupils at the charter
33 school. Resumes shall include an individual's educational and teaching
34 background and experience in a particular academic content subject area. A
35 charter school shall inform parents and guardians of the availability of the
36 resume information and shall make the resume information available for
37 inspection on request of parents and guardians of pupils enrolled at the
38 charter school. Nothing in this subsection shall be construed to require any
39 charter school to release personally identifiable information in relation to
40 any teacher or employee including the teacher's or employee's address,
41 salary, social security number or telephone number.

42 G. The charter of a charter school may be amended at the request of
43 the governing body of the charter school and on the approval of the sponsor.

44 H. Charter schools may contract, sue and be sued.

1 I. An approved plan to establish a charter school is effective for
 2 fifteen years from the first day of operation. At the conclusion of the
 3 first fourteen years of operation, the charter school may apply for renewal.
 4 In addition to any other requirements, the application for renewal shall
 5 include a detailed business plan for the charter school. The sponsor may
 6 deny the request for renewal if, in its judgment, the charter school has
 7 failed to complete the obligations of the contract or has failed to comply
 8 with this article. A sponsor shall give written notice of its intent not to
 9 renew the charter school's request for renewal to the charter school at least
 10 twelve months before the expiration of the approved plan to allow the charter
 11 school an opportunity to apply to another sponsor to transfer the operation
 12 of the charter school. If the operation of the charter school is transferred
 13 to another sponsor, the fifteen year period of the current charter shall be
 14 maintained. A sponsor shall review a charter at five year intervals and may
 15 revoke a charter at any time if the charter school breaches one or more
 16 provisions of its charter. At least ninety days before the effective date of
 17 the proposed revocation the sponsor shall give written notice to the operator
 18 of the charter school of its intent to revoke the charter. Notice of the
 19 sponsor's intent to revoke the charter shall be delivered personally to the
 20 operator of the charter school or sent by certified mail, return receipt
 21 requested, to the address of the charter school. The notice shall
 22 incorporate a statement of reasons for the proposed revocation of the
 23 charter. The sponsor shall allow the charter school at least ninety days to
 24 correct the problems associated with the reasons for the proposed revocation
 25 of the charter. The final determination of whether to revoke the charter
 26 shall be made at a public hearing called for such purpose.

27 J. After renewal of the charter at the end of the fifteen year period
 28 described in subsection I of this section, the charter may be renewed for
 29 successive periods of fifteen years if the charter school and its sponsor
 30 deem that the school is in compliance with its own charter and this article.

31 K. A charter school that is sponsored by the state board of education,
 32 ~~or~~ the state board for charter schools, A PUBLIC UNIVERSITY, A PUBLIC COLLEGE
 33 OR A COMMUNITY COLLEGE may not be located on the property of a school
 34 district unless the district governing board grants this authority.

35 L. A governing board or a school district employee who has control
 36 over personnel actions shall not take unlawful reprisal against another
 37 employee of the school district because the employee is directly or
 38 indirectly involved in an application to establish a charter school. A
 39 governing board or a school district employee shall not take unlawful
 40 reprisal against an educational program of the school or the school district
 41 because an application to establish a charter school proposes the conversion
 42 of all or a portion of the educational program to a charter school. ~~As used~~
 43 ~~in~~ FOR THE PURPOSES OF this subsection, "unlawful reprisal" means an action
 44 that is taken by a governing board or a school district employee as a direct

1 result of a lawful application to establish a charter school and that is
2 adverse to another employee or an education program and:

3 1. With respect to a school district employee, results in one or more
4 of the following:

5 (a) Disciplinary or corrective action.

6 (b) Detail, transfer or reassignment.

7 (c) Suspension, demotion or dismissal.

8 (d) An unfavorable performance evaluation.

9 (e) A reduction in pay, benefits or awards.

10 (f) Elimination of the employee's position without a reduction in
11 force by reason of lack of monies or work.

12 (g) Other significant changes in duties or responsibilities that are
13 inconsistent with the employee's salary or employment classification.

14 2. With respect to an educational program, results in one or more of
15 the following:

16 (a) Suspension or termination of the program.

17 (b) Transfer or reassignment of the program to a less favorable
18 department.

19 (c) Relocation of the program to a less favorable site within the
20 school or school district.

21 (d) Significant reduction or termination of funding for the program.

22 M. Charter schools shall secure insurance for liability and property
23 loss. The governing body of a charter school that is sponsored by the state
24 board of education or the state board for charter schools may enter into an
25 intergovernmental agreement or otherwise contract to participate in an
26 insurance program offered by a risk retention pool established pursuant to
27 section 11-952.01 or 41-621.01 or the charter school may secure its own
28 insurance coverage. The pool may charge the requesting charter school
29 reasonable fees for any services it performs in connection with the insurance
30 program.

31 N. Charter schools do not have the authority to acquire property by
32 eminent domain.

33 O. A sponsor, including members, officers and employees of the
34 sponsor, is immune from personal liability for all acts done and actions
35 taken in good faith within the scope of its authority.

36 P. Charter school sponsors and this state are not liable for the debts
37 or financial obligations of a charter school or persons who operate charter
38 schools.

39 Q. The sponsor of a charter school shall establish procedures to
40 conduct administrative hearings on determination by the sponsor that grounds
41 exist to revoke a charter. Procedures for administrative hearings shall be
42 similar to procedures prescribed for adjudicative proceedings in title 41,
43 chapter 6, article 10. Except as provided in section 41-1092.08, subsection
44 H, final decisions of the state board of education and the state board for

1 charter schools from hearings conducted pursuant to this subsection are
2 subject to judicial review pursuant to title 12, chapter 7, article 6.

3 R. The sponsoring entity of a charter school shall have oversight and
4 administrative responsibility for the charter schools that it sponsors.

5 S. Charter schools may pledge, assign or encumber their assets to be
6 used as collateral for loans or extensions of credit.

7 T. All property accumulated by a charter school shall remain the
8 property of the charter school.

9 U. Charter schools may not locate a school on property that is less
10 than one-fourth mile from agricultural land regulated pursuant to section
11 3-365, except that the owner of the agricultural land may agree to comply
12 with the buffer zone requirements of section 3-365. If the owner agrees in
13 writing to comply with the buffer zone requirements and records the agreement
14 in the office of the county recorder as a restrictive covenant running with
15 the title to the land, the charter school may locate a school within the
16 affected buffer zone. The agreement may include any stipulations regarding
17 the charter school, including conditions for future expansion of the school
18 and changes in the operational status of the school that will result in a
19 breach of the agreement.

20 V. A transfer of a charter to another sponsor, a transfer of a charter
21 school site to another sponsor or a transfer of a charter school site to a
22 different charter shall be completed before the beginning of the fiscal year
23 that the transfer is scheduled to become effective. An entity that sponsors
24 charter schools may accept a transferring school after the beginning of the
25 fiscal year if the transfer is approved by the superintendent of public
26 instruction. The superintendent of public instruction shall have the
27 discretion to consider each transfer during the fiscal year on a case by case
28 basis. If a charter school is sponsored by a school district that is
29 determined to be out of compliance with this title, the uniform system of
30 financial records or any other state or federal law, the charter school may
31 transfer to another sponsoring entity at any time during the fiscal year.

32 W. The sponsoring entity may not charge any fees to a charter school
33 that it sponsors unless the sponsor has provided services to the charter
34 school and the fees represent the full value of those services provided by
35 the sponsor. On request, the value of the services provided by the sponsor
36 to the charter school shall be demonstrated to the department of education.

37 X. A CHARTER SCHOOL SPONSORED BY A PUBLIC UNIVERSITY, A PUBLIC COLLEGE
38 OR A COMMUNITY COLLEGE SHALL MEET OR EXCEED THE ACCOUNTABILITY STANDARDS
39 ESTABLISHED BY THE STATE BOARD FOR CHARTER SCHOOLS, AND THOSE SPONSORS SHALL
40 DEVELOP AND ADOPT POLICIES AND PROCEDURES TO ASSURE THAT ALL CHARTER SCHOOLS
41 SPONSORED BY THOSE ENTITIES COMPLY WITH ALL APPLICABLE STATE AND FEDERAL
42 LAWS. IN ORDER TO MEET THE REQUIREMENTS OF THIS SUBSECTION, A PUBLIC
43 UNIVERSITY, A PUBLIC COLLEGE OR A COMMUNITY COLLEGE THAT SPONSORS A CHARTER
44 SCHOOL SHALL COMPLY WITH ALL OF THE FOLLOWING REQUIREMENTS:

1 1. ESTABLISH SPECIFIC APPLICATION, OVERSIGHT AND REVIEW POLICIES AND
2 PROCEDURES.

3 2. LIST MANDATORY REPORTING REQUIREMENTS.

4 3. REQUIRE ANNUAL FINANCIAL AND COMPLIANCE AUDITS OF EACH CHARTER
5 SCHOOL THAT IS SPONSORED BY THAT ENTITY AND MAKE THESE AUDIT FINDINGS PUBLIC
6 AS PRESCRIBED IN SECTION 15-914.

7 4. ENSURE THAT ALL POLICIES AND PROCEDURES ARE BASED ON GENERALLY
8 ACCEPTED BUSINESS STANDARDS, STANDARDS PRESCRIBED BY THE STATE BOARD FOR
9 CHARTER SCHOOLS OR STANDARDS PRESCRIBED BY THE NATIONAL ASSOCIATION OF
10 CHARTER SCHOOL AUTHORIZERS.

11 Sec. 2. Section 15-185, Arizona Revised Statutes, is amended to read:
12 15-185. Charter schools; financing; civil penalty; definitions

13 A. Financial provisions for a charter school that is sponsored by a
14 school district governing board are as follows:

15 1. The charter school shall be included in the district's budget and
16 financial assistance calculations pursuant to paragraph 3 of this subsection
17 and chapter 9 of this title, except for chapter 9, article 4 of this title.
18 The charter of the charter school shall include a description of the methods
19 of funding the charter school by the school district. The school district
20 shall send a copy of the charter and application, including a description of
21 how the school district plans to fund the school, to the state board of
22 education before the start of the first fiscal year of operation of the
23 charter school. The charter or application shall include an estimate of the
24 student count for the charter school for its first fiscal year of operation.
25 This estimate shall be computed pursuant to the requirements of paragraph 3
26 of this subsection.

27 2. A school district is not financially responsible for any charter
28 school that is sponsored by the state board of education, ~~or~~ the state board
29 for charter schools, A PUBLIC UNIVERSITY, A PUBLIC COLLEGE OR A COMMUNITY
30 COLLEGE.

31 3. A school district that sponsors a charter school may:

32 (a) Increase its student count as provided in subsection B, paragraph
33 2 of this section during the first year of the charter school's operation to
34 include those charter school pupils who were not previously enrolled in the
35 school district. A charter school sponsored by a school district governing
36 board is eligible for the assistance prescribed in subsection B, paragraph 4
37 of this section. The soft capital allocation as provided in section 15-962
38 for the school district sponsoring the charter school shall be increased by
39 the amount of the additional assistance. The school district shall include
40 the full amount of the additional assistance in the funding provided to the
41 charter school.

42 (b) Compute separate weighted student counts pursuant to section
43 15-943, paragraph 2, subdivision (a) for its noncharter school versus charter
44 school pupils in order to maintain eligibility for small school district
45 support level weights authorized in section 15-943, paragraph 1 for its

1 noncharter school pupils only. The portion of a district's student count
2 that is attributable to charter school pupils is not eligible for small
3 school district support level weights.

4 4. If a school district uses the provisions of paragraph 3 of this
5 subsection, the school district is not eligible to include those pupils in
6 its student count for the purposes of computing an increase in its revenue
7 control limit and district support level as provided in section 15-948.

8 5. A school district that sponsors a charter school is not eligible to
9 include the charter school pupils in its student count for the purpose of
10 computing an increase in its capital outlay revenue limit as provided in
11 section 15-961, subsection C, except that if the charter school was
12 previously a school in the district, the district may include in its student
13 count any charter school pupils who were enrolled in the school district in
14 the prior year.

15 6. A school district that sponsors a charter school is not eligible to
16 include the charter school pupils in its student count for the purpose of
17 computing the revenue control limit which is used to determine the maximum
18 budget increase as provided in chapter 4, article 4 of this title unless the
19 charter school is located within the boundaries of the school district.

20 7. If a school district converts one or more of its district public
21 schools to a charter school and receives assistance as prescribed in
22 subsection B, paragraph 4 of this section, and subsequently converts the
23 charter school back to a district public school, the school district shall
24 repay the state the total additional assistance received for the charter
25 school for all years that the charter school was in operation. The repayment
26 shall be in one lump sum and shall be reduced from the school district's
27 current year equalization assistance. The school district's general budget
28 limit shall be reduced by the same lump sum amount in the current year.

29 B. Financial provisions for a charter school that is sponsored by the
30 state board of education, ~~or~~ the state board for charter schools, **A PUBLIC**
31 **UNIVERSITY, A PUBLIC COLLEGE OR A COMMUNITY COLLEGE** are as follows:

32 1. The charter school shall calculate a base support level as
33 prescribed in section 15-943, except that sections 15-941 and 15-942 do not
34 apply to these charter schools.

35 2. Notwithstanding paragraph 1 of this subsection, the student count
36 shall be determined initially using an estimated student count based on
37 actual registration of pupils before the beginning of the school year. After
38 the first one hundred days or two hundred days in session, as applicable, the
39 charter school shall revise the student count to be equal to the actual
40 average daily membership, as defined in section 15-901, or the adjusted
41 average daily membership, as prescribed in section 15-902, of the charter
42 school. Before the one hundredth day or two hundredth day in session, as
43 applicable, the state board of education, ~~or~~ the state board for charter
44 schools, **THE PUBLIC UNIVERSITY, THE PUBLIC COLLEGE OR THE COMMUNITY COLLEGE**
45 may require a charter school to report periodically regarding pupil

1 enrollment and attendance and the department of education may revise its
2 computation of equalization assistance based on the report. A charter school
3 shall revise its student count, base support level and additional assistance
4 before May 15. A charter school that overestimated its student count shall
5 revise its budget before May 15. A charter school that underestimated its
6 student count may revise its budget before May 15.

7 3. A charter school may utilize section 15-855 for the purposes of
8 this section. The charter school and the department of education shall
9 prescribe procedures for determining average daily attendance and average
10 daily membership.

11 4. Equalization assistance for the charter school shall be determined
12 by adding the amount of the base support level and additional assistance.
13 The amount of the additional assistance is one thousand four hundred
14 forty-five dollars twenty-five cents per student count in kindergarten
15 programs and grades one through eight and one thousand six hundred
16 eighty-four dollars forty-one cents per student count in grades nine through
17 twelve.

18 5. The state board of education shall apportion state aid from the
19 appropriations made for such purposes to the state treasurer for disbursement
20 to the charter schools in each county in an amount as determined by this
21 paragraph. The apportionments shall be made in twelve equal installments of
22 the total amount to be apportioned during the fiscal year on the fifteenth
23 day of each month of the fiscal year.

24 6. Notwithstanding paragraph 5 of this subsection, if sufficient
25 appropriated monies are available after the first forty days in session of
26 the current year, a charter school may request additional state monies to
27 fund the increased state aid due to anticipated student growth through the
28 first one hundred days or two hundred days in session, as applicable, of the
29 current year as provided in section 15-948. In no event shall a charter
30 school have received more than three-fourths of its total apportionment
31 before April 15 of the fiscal year. Early payments pursuant to this
32 subsection must be approved by the state treasurer, the director of the
33 department of administration and the superintendent of public instruction.

34 7. The charter school shall not charge tuition, levy taxes or issue
35 bonds.

36 8. Not later than noon on the day preceding each apportionment date
37 established by paragraph 5 of this subsection, the superintendent of public
38 instruction shall furnish to the state treasurer an abstract of the
39 apportionment and shall certify the apportionment to the department of
40 administration, which shall draw its warrant in favor of the charter schools
41 for the amount apportioned.

42 C. If a pupil is enrolled in both a charter school and a public school
43 that is not a charter school, the sum of the daily membership, which includes
44 enrollment as prescribed in section 15-901, subsection A, paragraph 2,
45 subdivisions (a) and (b) and daily attendance as prescribed in section

1 15-901, subsection A, paragraph 6, for that pupil in the school district and
 2 the charter school shall not exceed 1.0, except that if the pupil is enrolled
 3 in both a charter school and a joint technological education district and
 4 resides within the boundaries of a school district participating in the joint
 5 technological education district, the sum of the average daily membership for
 6 that pupil in the charter school and the joint technological education
 7 district shall not exceed 1.25. If a pupil is enrolled in both a charter
 8 school and a public school that is not a charter school, the department of
 9 education shall direct the average daily membership to the school with the
 10 most recent enrollment date. Upon validation of actual enrollment in both a
 11 charter school and a public school that is not a charter school and if the
 12 sum of the daily membership or daily attendance for that pupil is greater
 13 than 1.0, the sum shall be reduced to 1.0 and shall be apportioned between
 14 the public school and the charter school based on the percentage of total
 15 time that the pupil is enrolled or in attendance in the public school and the
 16 charter school, except that if the pupil is enrolled in both a charter school
 17 and a joint technological education district and resides within the
 18 boundaries of a school district participating in the joint technological
 19 education district, the sum of the average daily membership for that pupil in
 20 the charter school and the joint technological education district shall be
 21 reduced to 1.25 and shall be apportioned between the charter school and the
 22 joint technological education district based on the percentage of total time
 23 that the pupil is enrolled or in attendance in the charter school and the
 24 joint technological education district. The uniform system of financial
 25 records shall include guidelines for the apportionment of the pupil
 26 enrollment and attendance as provided in this section.

27 D. Charter schools are allowed to accept grants and gifts to
 28 supplement their state funding, but it is not the intent of the charter
 29 school law to require taxpayers to pay twice to educate the same pupils. The
 30 base support level for a charter school or for a school district sponsoring a
 31 charter school shall be reduced by an amount equal to the total amount of
 32 monies received by a charter school from a federal or state agency if the
 33 federal or state monies are intended for the basic maintenance and operations
 34 of the school. The superintendent of public instruction shall estimate the
 35 amount of the reduction for the budget year and shall revise the reduction to
 36 reflect the actual amount before May 15 of the current year. If the
 37 reduction results in a negative amount, the negative amount shall be used in
 38 computing all budget limits and equalization assistance, except that:

- 39 1. Equalization assistance shall not be less than zero.
- 40 2. For a charter school sponsored by the state board of education, ~~or~~
 41 the state board for charter schools, A PUBLIC UNIVERSITY, A PUBLIC COLLEGE, A
 42 COMMUNITY COLLEGE, the total of the base support level, the capital outlay
 43 revenue limit, the soft capital allocation and the additional assistance
 44 shall not be less than zero.

1 3. For a charter school sponsored by a school district, the base
2 support level for the school district shall not be reduced by more than the
3 amount that the charter school increased the district's base support level,
4 capital outlay revenue limit and soft capital allocation.

5 E. If a charter school was a district public school in the prior year
6 and is now being operated for or by the same school district and sponsored by
7 the state board of education, the state board for charter schools, **A PUBLIC**
8 **UNIVERSITY, A PUBLIC COLLEGE, A COMMUNITY COLLEGE** or a school district
9 governing board, the reduction in subsection D of this section applies. The
10 reduction to the base support level of the charter school or the sponsoring
11 district of the charter school shall equal the sum of the base support level
12 and the additional assistance received in the current year for those pupils
13 who were enrolled in the traditional public school in the prior year and are
14 now enrolled in the charter school in the current year.

15 F. Equalization assistance for charter schools shall be provided as a
16 single amount based on average daily membership without categorical
17 distinctions between maintenance and operations or capital.

18 G. At the request of a charter school, the county school
19 superintendent of the county where the charter school is located may provide
20 the same educational services to the charter school as prescribed in section
21 15-308, subsection A. The county school superintendent may charge a fee to
22 recover costs for providing educational services to charter schools.

23 H. If the sponsor of the charter school determines at a public meeting
24 that the charter school is not in compliance with federal law, with the laws
25 of this state or with its charter, the sponsor of a charter school may submit
26 a request to the department of education to withhold up to ten per cent of
27 the monthly apportionment of state aid that would otherwise be due the
28 charter school. The department of education shall adjust the charter
29 school's apportionment accordingly. The sponsor shall provide written notice
30 to the charter school at least seventy-two hours before the meeting and shall
31 allow the charter school to respond to the allegations of noncompliance at
32 the meeting before the sponsor makes a final determination to notify the
33 department of education of noncompliance. The charter school shall submit a
34 corrective action plan to the sponsor on a date specified by the sponsor at
35 the meeting. The corrective action plan shall be designed to correct
36 deficiencies at the charter school and to ensure that the charter school
37 promptly returns to compliance. When the sponsor determines that the charter
38 school is in compliance, the department of education shall restore the full
39 amount of state aid payments to the charter school.

40 I. In addition to the withholding of state aid payments pursuant to
41 subsection H of this section, the sponsor of a charter school may impose a
42 civil penalty of one thousand dollars per occurrence if a charter school
43 fails to comply with the fingerprinting requirements prescribed in section
44 15-183, subsection C or section 15-512. The sponsor of a charter school
45 shall not impose a civil penalty if it is the first time that a charter

1 school is out of compliance with the fingerprinting requirements and if the
2 charter school provides proof within forty-eight hours of written
3 notification that an application for the appropriate fingerprint check has
4 been received by the department of public safety. The sponsor of the charter
5 school shall obtain proof that the charter school has been notified and the
6 notification shall identify the date of the deadline and shall be signed by
7 both parties. The sponsor of a charter school shall automatically impose a
8 civil penalty of one thousand dollars per occurrence if the sponsor
9 determines that the charter school subsequently violates the fingerprinting
10 requirements. Civil penalties pursuant to this ~~section~~ SUBSECTION shall be
11 assessed by requesting the department of education to reduce the amount of
12 state aid that the charter school would otherwise receive by an amount equal
13 to the civil penalty. The amount of state aid withheld shall revert to the
14 state general fund at the end of the fiscal year.

15 J. IN ADDITION TO THE WITHHOLDING OF STATE AID PAYMENTS PURSUANT TO
16 SUBSECTION H OF THIS SECTION, THE SPONSOR OF A CHARTER SCHOOL MAY IMPOSE A
17 CIVIL PENALTY OF ONE THOUSAND DOLLARS PER VIOLATION IF A CHARTER SCHOOL FAILS
18 TO COMPLY WITH THE FINGERPRINTING REQUIREMENTS PRESCRIBED IN SECTION 15-183,
19 SUBSECTION C OR SECTION 15-512. A CIVIL PENALTY PURSUANT TO THIS SUBSECTION
20 SHALL BE ASSESSED BY REQUESTING THE DEPARTMENT OF EDUCATION TO REDUCE THE
21 AMOUNT OF STATE AID DUE TO THE CHARTER SCHOOL IN AN AMOUNT EQUIVALENT TO THE
22 CIVIL PENALTY. ALL PENALTIES COLLECTED PURSUANT TO THIS SUBSECTION REVERT TO
23 THE STATE GENERAL FUND AT THE END OF THE FISCAL YEAR. A CIVIL PENALTY SHALL
24 NOT BE ASSESSED IF BOTH OF THE FOLLOWING CONDITIONS ARE MET:

- 25 1. THE CHARTER SCHOOL HAS NOT PREVIOUSLY BEEN FOUND IN NONCOMPLIANCE.
- 26 2. THE CHARTER SCHOOL PROVIDES PROOF, WITHIN TWO BUSINESS DAYS AFTER
27 RECEIVING WRITTEN NOTIFICATION OF NONCOMPLIANCE FROM THE SPONSOR OF THE
28 CHARTER SCHOOL, THAT THE DEPARTMENT OF PUBLIC SAFETY HAS RECEIVED AN
29 APPLICATION FOR THE APPROPRIATE FINGERPRINT CHECK FOR EACH NONCOMPLIANT
30 INDIVIDUAL. THE SPONSOR SHALL OBTAIN PROOF THAT THE CHARTER SCHOOL HAS
31 RECEIVED THE WRITTEN NOTIFICATION OF NONCOMPLIANCE. THE NOTIFICATION OF
32 NONCOMPLIANCE SHALL IDENTIFY THE DATE OF THE DEADLINE AND SHALL BE SIGNED BY
33 THE CHARTER SCHOOL AND THE SPONSOR OF THE CHARTER SCHOOL.

34 ~~J.~~ K. A charter school may receive and spend monies distributed by
35 the department of education pursuant to section 42-5029, subsection E and
36 section 37-521, subsection B.

37 L. NOTWITHSTANDING ANY OTHER LAW, A PUBLIC UNIVERSITY, A PUBLIC
38 COLLEGE OR A COMMUNITY COLLEGE SHALL NOT INCLUDE ANY STUDENT IN THE STUDENT
39 COUNT OF THE UNIVERSITY, COLLEGE OR COMMUNITY COLLEGE FOR STATE FUNDING
40 PURPOSES IF THAT STUDENT IS ENROLLED IN AND ATTENDING A CHARTER SCHOOL
41 SPONSORED BY THE UNIVERSITY, COLLEGE OR COMMUNITY COLLEGE.

- 42 ~~K.~~ M. For the purposes of this section:
- 43 1. "Monies intended for the basic maintenance and operations of the
44 school" means monies intended to provide support for the educational program
45 of the school, except that it does not include supplemental assistance for a

1 specific purpose or P.L. 81-874 monies. The auditor general shall determine
2 which federal or state monies meet the definition in this paragraph.

3 2. "Operated for or by the same school district" means the charter
4 school is either governed by the same district governing board or operated by
5 the district in the same manner as other traditional schools in the district
6 or is operated by an independent party that has a contract with the school
7 district. The auditor general and the department of education shall
8 determine which charter schools meet the definition in this subsection.

9 Sec. 3. Retroactivity

10 Section 15-183, Arizona Revised Statutes, as amended by this act,
11 applies retroactively to from and after June 30, 2008.